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Single Bench

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION No. 315 /05

PETITIONER

Suresh Kumar, S/o. Parmanand
Kotak, Aged about 41 years, R/o.
Kailashnagar, Rajnandgaon, Tahsil &
District Rajnandgaon (C.G.).

VERSUS

RESPONDENT

Padam Chopra, S/o. Late Sahatmal
Chopra, Aged about 40 years,
Proprietor of Arihant Finance
Company, R/o. Sadarbajar,
Rajnandgaon, Tahsil & District
Rajnandgaon (C.G.).

P.R. No. 203/09
Presented by Sri. Dr. Rajendra Kumar
dated 25-1-09

WRIT PETITION UNDER ARTICLE 226/227 OF THE
CONSTITUTION OF INDIA

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ...W.P. 315/05... सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	11.3.2005 Shri Anup Mazumdar, counsel for the petitioner. The petitioner has preferred this writ petition being aggrieved by the order dated 1.12.2004 passed by learned District Judge, Rajnandgaon whereby the application of the petitioner herein, who is defendant before the court below, regarding summoning of the witnesses and for examination of writing on the promissory note and cheque by the handwriting expert was rejected. I have heard learned counsel for the petitioner. So far as the grievance of the petitioner regarding summoning of bank employees is concerned, learned District Judge has observed that no name & address of the witness was given in the list of witnesses, therefore such a witness cannot be summoned. As per Order 16 Rule 1 of CPC the petitioner was required to furnish a list of witnesses within 15 days from the date of framing of issues, but same was not followed by the petitioner herein. Moreover, during the course of arguments learned counsel for the petitioner was not able to convince this Court that how the bank employees are necessary witnesses in this matter when the petitioner has admitted his signature on the cheque and pronote. The only dispute raised by the petitioner herein is that other writing in the cheque and pronote i.e. name of the person in whose favour it was issued was not written by him. For proving this, the evidence of any bank employee is not necessary, the petitioner can prove the same by the records and other oral & documentary evidence. Therefore on this ground, I do not find any substance in this petition.	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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	So far as the question of examination of writing in the pronote and cheque by handwriting expert is concerned, for that also learned District Judge has observed that it has been filed at a belated stage. The petitioner herein was very much aware about the fact since the beginning but he had not moved at the appropriate time for getting these documents examined by handwriting expert. Name of handwriting expert was also not shown in the list of witnesses. Even otherwise so far as the question of handwriting in the pronote and cheque is concerned, the petitioner herein can adduce other evidence in that regard to prove that the writing is not of his hand and he has already raised this objection in his written statement. Moreover, even Presiding Officer is not precluded from comparing the handwriting as per provisions of Section 73 of the Evidence Act. Therefore, I do not find any illegality or infirmity in the order passed by learned District Judge, the petition of the petitioner is liable to be dismissed and accordingly, it is dismissed. Consequently, M.W.P. No.276/05 also stands dismissed.	Sd/- L.C. Bhadoo Judge

(पीछे देखिये)